



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on June 14, 2005

Date of Meeting: May 17, 2005

The Mayor and Council of the City of Tucson met in regular session in the Graham/Greenlee Meeting Rooms in the Tucson Convention Center, 260 South Church Avenue, Tucson, Arizona, at 5:32 p.m. on Tuesday, May 17, 2005, all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Council Member Ward 2
Kathleen Dunbar	Vice Mayor, Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Steve Leal	Council Member Ward 5
Fred Ronstadt	Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused:	None
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Staff Members Present:

Mike Hein	City Manager
Michael Rankin	City Attorney
Roger Randolph	Deputy City Clerk
Michael D. Letcher	Deputy City Manager

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given in Spanish by President Jose P. Fierros, Church of Jesus Christ of Latter-day Saints, after which the pledge of allegiance was led by the Pueblo Magnet High School Student Council.

Presentations:

- a. Mayor Walkup proclaimed May 15 to May 21, 2005 to be Public Works Week.
- b. Mayor Walkup proclaimed May 20, 2005 to be Inhalant Abuse Awareness Day.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 252, dated May 17, 2005, would be received into and made a part of the record. He also announced this was the time scheduled to allow members of the Council to report on current events and asked if there were any reports.

- a. Vice Mayor Dunbar announced the grand opening of Fire Station 20 on May 20, 2005. She said the fire station was needed to reduce the demand on Fire Station 8, which was reportedly the fourth busiest in the United States.
- b. Council Member Ronstadt announced the City had been awarded 9.9 million dollars in a Housing and Urban Development (HUD) Hope VI grant for the revitalization of the Martin Luther King, Jr. Apartments.

4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 253, dated May 17, 2005, would be received into and made a part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

Mike Hein, City Manager, reported:

- a. The City was one of seven recipients of Hope VI funding.
- b. In honor of Public Works Week, the Department of Transportation, Tucson Water, and Parks and Recreation invited everyone to attend the public event at Jácome Plaza, adjacent to the Main Library, on May 19, 2005.
- c. The following Department of Transportation (TDOT) projects and employees were honored by the Southern Arizona Branch of the American Public Works Association (APWA):

Project of the Year (under \$10 Million): Bus Shelter Program – Solar Structural Artistry; Project of the Year (under \$2 Million): Back to Basics – Feldman Neighborhood; Public Works Professional of the Year: Lee Gagnier, Administrator, Streets Division; Public Works Operations Employee of the Year: Phillip Campista, Supervisor, Streets Division; Special Recognition for the Public Outreach Program of the Year: Storm Water Management Section, Engineering Division, TDOT, “Celebrate the Natural Beauty of Tucson’s Washes”

- d. The Tucson Police Department Honor Guard participated at the National Memorial Service on May 14, 2005. They competed in the third annual Fraternal Order of Police Honor Guard competition held during Police Memorial Week in Washington, D.C. They were selected to perform the flag folding ceremony at the National Police Memorial Service on May 15, 2005 at the Capitol.
- e. The Edith Ball Adaptive Recreation Center was mentioned in the article featured on the cover of the May 2005, *Parks and Rec Business* “Concept to Reality, Coast to Coast, Making great ideas better through planning, flexibility, and innovation”.
- f. Results of the Bond election would be available online at www.ci.tucson.az.us/.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager’s communication number 250, dated May 17, 2005, would be received into and made a part of the record. He asked the Deputy City Clerk to read the Liquor License Agenda.

b. Liquor License Applications

New License

- 1. Las Reynas Distributors, Ward 5
1665 E. 18th Street, #204
Applicant: Francisco Ramon Gonzalez
Series 04, City 30-05
Action must be taken by: June 5, 2005
Staff has indicated the applicant is in compliance with city requirements.

Person Transfer

- 2. The Garland, Ward 6
119 E. Speedway Blvd.
Applicant: Thomas Robert Aguilera
Series 07, City 28-05
Action must be taken by: May 28, 2005
Staff has indicated the applicant is in compliance with city requirements.

Person/Location Transfer

3. Albertson's #972, Ward 1
 1350 N. Silverbell Road
 Applicant: Glenn Allen Edmondson
 Series 09, City 29-05
 Action must be taken by: June 2, 2005
 Staff has indicated the applicant is in compliance with city requirements.

It was moved by Council Member Ronstadt, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1 through 5b3 to the Arizona State Liquor Board with a recommendation for approval.

6. CONSENT AGENDA – ITEMS A THROUGH E

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda Items would be received into and made a part of the record. He asked the Deputy City Clerk to read the Consent Agenda.

- A. REAL PROPERTY: AUTHORIZATION TO ACQUIRE PROPERTY
 LOCATED NEAR SANDARIO ROAD AND SNYDER HILL ROAD FOR THE
 SOUTHERN AVRA VALLEY STORAGE AND RECOVERY PROJECT
 1. Report from City Manager MAY17-05-255 OUTSIDE CITY
 2. Resolution No. 20075 relating to real property; authorizing the City Manager to acquire by negotiation certain real property located north of Snyder Hill Road and east of Sandario Road to consolidate City ownership of land located within the Southern Avra Valley Storage and Recovery Project (SAVSARP); and declaring an emergency.
- B. REAL PROPERTY: AUTHORIZATION TO ACQUIRE THE NORTHEAST
 CORNER OF SIXTH AVENUE AND PENNINGTON STREET FOR THE
 EXPANSION OF THE RONSTADT TRANSIT CENTER
 1. Report from City Manager MAY17-05-251 WARD 6
 2. Resolution No. 20076 relating to real property; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, certain real property located at the northeast corner of Sixth Avenue and Pennington Street to allow expansion of the Ronstadt Transit Center; and declaring an emergency.

C. GRANT AGREEMENT: WITH THE ARIZONA DIVISION OF EMERGENCY MANAGEMENT FOR THE 2004 STATE HOMELAND SECURITY GRANT PROGRAM AND THE 2004 LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM

1. Report from City Manager MAY17-05-257 CITY-WIDE
2. Resolution No. 20077 relating to police; approving and authorizing the execution of a Grant Agreement between the City of Tucson and the State of Arizona, Division of Emergency Management (ADEM) Office for Domestic Preparedness (ODP) for the 2004 State Homeland Security Grant Program (SHSGP) and the 2004 Law Enforcement Terrorism Prevention Program (LETPP); and declaring an emergency.

D. AGREEMENTS: WITH VARIOUS COMMUNICATIONS COMPANIES FOR THE FOURTH AVENUE UNDERPASS UTILITY RELOCATION

1. Report from City Manager MAY17-05-256 WARDS 1, 5, AND 6
2. Resolution No. 20078 relating to transportation; authorizing and approving the execution of Utility Relocation Agreements between the City of Tucson and Level 3 Communications LLC, WilTel Communications LLC, MCI Worldcom Network Services Inc., and Qwest Communications Corporation for reimbursement of costs for relocation of fiber optics facilities located within the Union Pacific Railroad right-of-way required for the Fourth Avenue Underpass Project; and declaring an emergency.

E. APPROVAL OF MINUTES

1. Report from City Manager MAY17-05-258 CITY-WIDE
2. Approval of minutes for the regular meeting of the Mayor and Council held on April 19, 2005.

It was moved by Council Member Ibarra, duly seconded, that Consent Agenda Items A through E be passed and adopted and the proper action taken.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: None

Consent Agenda Items A through E were declared passed and adopted by a roll call vote of 7 to 0.

7. CALL TO THE AUDIENCE

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except items scheduled for a public hearing. Speakers would be limited to three-minute presentations.

- a. Joe Chitwood, representing the University of Arizona, said e-Partners and PEG (Public, Educational and Governmental) of Tucson Unified School District and Pima Community College were petitioning the City of Tucson for equitable shares of the cable license revenues for educational purposes.
- b. Michael Toney addressed the Mayor and Council and commented on several issues including “Club Crawl”, quality entertainment at Rialto Theatre, the negative impact rap music has on children, abusive music and noise pollution and laser optics.
- c. Jerry D’Paco, Vice President of Victoria Manor Townhomes, addressed concerns with the common wall that separated the townhomes from a dollar store development.

8. ZONING: (Co9-95-04) EJM/UNIVERSITY OF ARIZONA – RIVER ROAD, SR TO R-3, ORDINANCE ADOPTION

Mayor Walkup announced City Manager’s communication number 249, dated May 17, 2005, would be received into and made a part of the record. He asked the Deputy City Clerk to read Ordinance 10153 by number and title only.

Ordinance No. 10153 relating to zoning: amending zoning district boundaries in the area located approximately 700 feet south of River Road and 700 feet east of Campbell Avenue in case Co9-95-04 EJM/University of Arizona – River Road, SR to R-3; and setting an effective date.

It was moved by Vice Mayor Dunbar, duly seconded, to pass and adopt Ordinance 10153.

Vice Mayor Dunbar stated there was no other option but to pass the item. She was unhappy with the item, which was initiated in August 1995, and given approval on November 13, 2000. She said the last thing they wanted were apartments in the area, especially as they were working hard to have owner-occupied housing. She understood from Ernie Duarte, Director of Development Services, there was no other option but to pass and adopt the Ordinance. She said it was originally from Pima County. Vice Mayor Dunbar also stated for the record, she had nothing to do with this, and it was done long before she was in office.

Council Member Ronstadt requested clarification as to why there were no other options.

Ernie Duarte, Director of Development Services, affirmed Vice Mayor Dunbar's statement that Pima County initiated the rezoning in 1995. He explained when the City annexed the area, they annexed the rezoning case. One of the conditions was they accept the rezoning case and process it in the same fashion as it was initiated in Pima County. Subsequent to annexation and original City zoning in the area, the Council in 2000 gave a time extension to 2005. Since that time, the developer submitted the necessary documentation demonstrating compliance with all the rezoning conditions and compliance with all the Mayor and Council adopted codes and standards.

Council Member Ronstadt asked what the consequences were if the Council did not adopt the item.

Mr. Duarte explained, as part of the annexation, there was a development agreement to process the rezoning case as it was initiated in Pima County. If the Council chose not to act on the item it would revert back to the original zoning that was in Pima County, or similar City of Tucson zoning for the area.

Council Member Ronstadt asked what the repercussions would be on City taxpayers if no action was taken or if it was denied.

Vice Mayor Dunbar said they had to act on it, but she wanted it very clear that her office did not approve it, they had nothing to do with it, and it did not happen on her watch. It was a process that started with the Mayor and Council long before she was in office.

Mayor Walkup stated he had a motion, seconded by Council Member Ibarra, and asked if there was any discussion.

Council Member West made a substitute motion to delay the item for a week to allow more time for discussion with the developer. She understood the developer had not talked with Ward 3.

Vice Mayor Dunbar said they had not, but timing was a concern.

Council Member West asked if they could delay the item a week for more discussion.

Mr. Duarte explained timing was a concern as the rezoning case expired on June 20, 2005. If the Council adopted the Ordinance, there was a State-mandated thirty day waiting period. If they delayed a week, it could put them past the expiration date.

Council Member West stated she was pro-annexation, but it seemed the Council was misled. It was the exact opposite of a letter they had received from Ann Day, Pima County Supervisor, which said she did not want zoning to be more intense yet this project came to them already rezoned from 1995, and they were expected to reluctantly pass it. She said it would be very hard for her to vote for it.

Vice Mayor Dunbar said she would be happy if it was for condominium zoning, but she understood the rezoning would be going from condominiums to apartments.

Mayor Walkup asked if the developer was present.

Dan Elder, of Landmark Engineering, representing the developer, said they had prepared the plans that had been submitted for review and had gone through staff on the tentative plat and were in the process of submitting improvement plans for the project. Mr. Elder said he would be happy to answer questions the Council had or make comments. He said it was for condominiums not apartments.

Vice Mayor Dunbar said according to her material it had gone from condominiums to apartments.

Mr. Elder said he did not know how to respond because that was not the case. They were preparing the documents that would go through the volume process to determine they had the volume and unit on the final plat described for sale of the particular unit. They went through the negotiations where the annexation agreement said they would not be charged or not be addressed for the river improvements, yet the developer had agreed to put up the in-lieu-of fees for the river improvements on the river park. They had gone the extra mile to get the land donated both to the County and City for either drainage, and/or equestrian, and/or open space recreation which went beyond the annexation agreements. So they had gone overboard to try to comply and do a better job. They went in with a lower density project but were told it would go against the TR zoning, or the submittal, which was made almost ten years ago, so instead of apartments, they converted it to a condominium project.

Mayor Walkup asked Mike Hein, City Manager, for assistance with the item.

Mr. Hein requested a recess for staff to address the issues brought up in discussion.

RECESS: 6:10 p.m.

RECONVENE: 6:17 p.m.

(Note: All members of the Mayor and Council were present.)

Mayor Walkup reconvened the Council. He announced there was no second on Council Member West's substitute motion to delay the item. He recognized Vice Mayor Dunbar.

Vice Mayor Dunbar stated the developer's representative committed the project for condominiums for sale. Mr. Elder had agreed and staff had agreed it would be condominiums.

It was moved by Vice Mayor Dunbar, duly seconded, to pass and adopt Ordinance 10153, with the commitment the project would be for condominiums and not apartments.

Council Member Ronstadt asked how they would codify the commitment in the language of what they were doing.

Mike Rankin, City Attorney, stated it should be incorporated in the motion, which was what he heard. The motion to approve was contingent on the description of the project as condominiums.

Council Member Leal stated there would be no latitude, on the part of the owner, to modify the project to apartments.

Mr. Rankin said that was correct. He also mentioned there was no legal obligation to approve and adopt the Ordinance, as there was in other contexts, for example plat approval. The issue arose from the fact that this was tied to an earlier pre-annexation and development agreement. He wanted them to be aware this was a discretionary legislative act.

Mayor Walkup asked for a roll call vote.

Roger Randolph, Deputy City Clerk, clarified the vote was on Vice Mayor Dunbar's motion with the contingency that the project was only for condominiums.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, Leal, and Ronstadt;
Vice Mayor Dunbar and Mayor Walkup

Nay: None

Ordinance 10153, with the contingency that the project was only for condominiums, was declared passed and adopted by a roll call vote of 7 to 0.

9. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

(Note: Council Member Leal departed at 6:19 p.m.)

Mayor Walkup announced City Manager's communication number 254, dated May 17, 2005, would be received into and made a part of the record. He asked if there were any personal appointments.

Council Member West requested staff prepare an ordinance for the May 24, 2005 meeting to appoint Arnold Elias to the Civil Service Commission. She also reminded the Council at the next meeting they would have the Magistrate Merit Selection Commission on the agenda. She said there were two vacancies for Democrats. She asked the Council to consider Freda Johnson. She also asked the Council to consider reappointing Helen Mautner.

10. ADJOURNMENT 6:20 p.m.

Mayor Walkup announced the Council would stand adjourned until its next regularly scheduled meeting to be held on Tuesday, May 24, 2005, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 W. Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 17th day of May 2005, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:rm/sl